

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

LEONARD K. BAYLIS,)	
)	
Plaintiff,)	
)	
v.)	Civ. No. 06-11-SLR
)	
STANLEY TAYLOR, CHRIS MALANEY,)	
DR. ANTHONY CANNOLI, BRUCE)	
DOE, and JANE DOE,)	
)	
Defendants.)	

ORDER

At Wilmington this 7th day of March, 2006, plaintiff having satisfied the filing prerequisites of 28 U.S.C. § 1915A; and the court having identified cognizable claims within the meaning of 28 U.S.C. § 1915A(b);

IT IS ORDERED that:

1. The clerk of the court shall cause a copy of this order to be mailed to plaintiff.
2. The letter/motion for appointment of counsel (D.I. 24) is DENIED WITHOUT PREJUDICE for the reasons set forth in the court's memorandum order dated February 24, 2006. (D.I. 23)
3. Plaintiff's amended complaint is brought against Stan Taylor, Chris Malaney, Dr. Anthony Cannoli, Bruce Doe and Jane Doe.
4. Defendant Thomas Carroll was named as a defendant in the original complaint (D.I. 2), but is not named as a defendant in the amended complaint. (D.I. 25) The amended complaint

contains no allegations against Thomas Carroll, and therefore, he is DISMISSED WITHOUT PREJUDICE as a defendant.

5. Plaintiff shall immediately move the court for an order directing amendment of the caption and service of the amended complaint upon learning the identification of the Bruce Doe/Jane Doe defendants.

6. The matter will proceed on the amended complaint.

(D.I. 25)

IT IS FURTHER ORDERED that:

1. Pursuant to Fed. R. Civ. P. 4(c)(2) and (d)(2), plaintiff shall complete and return to the clerk of the court an **original "U.S. Marshal-285" form for defendants (i.e. Stan Taylor, Chris Malaney, and Dr. Anthony Cannoli)**, as well as for the Attorney General of the State of Delaware, 820 N. FRENCH STREET, WILMINGTON, DELAWARE, 19801, pursuant to DEL. CODE ANN. tit. 10 § 3103(c). **Plaintiff has provided the court with one copy of the amended complaint (D.I. 25) for service upon each defendant. Plaintiff is notified that the United States Marshal will not serve the amended complaint until all "U.S. Marshal 285" forms have been received by the clerk of the court. Failure to provide the "U.S. Marshal 285" forms for each defendant and the attorney general within 120 days of this order may result in the amended complaint being dismissed or defendants being dismissed pursuant to Federal Rule of Civil Procedure 4(m).**

2. Upon receipt of the form(s) required by paragraph 1

above, the United States Marshal shall forthwith serve a copy of the amended complaint (D.I. 25), this order, a "Notice of Lawsuit" form, the filing fee order(s), and a "Return of Waiver" form upon each of the defendants so identified in each 285 form.

3. Within **thirty (30) days** from the date that the "Notice of Lawsuit" and "Return of Waiver" forms are sent, if an executed "Waiver of Service of Summons" form has not been received from a defendant, the United States Marshal shall personally serve said defendant(s) pursuant to Fed. R. Civ. P. 4(c)(2) and said defendant(s) shall be required to bear the cost related to such service, unless good cause is shown for failure to sign and return the waiver.

4. Pursuant to Fed. R. Civ. P. 4(d)(3), a defendant who, before being served with process timely returns a waiver as requested, is required to answer or otherwise respond to the amended complaint within **sixty (60) days** from the date upon which the amended complaint, this order, the "Notice of Lawsuit" form, and the "Return of Waiver" form are sent. If a defendant responds by way of a motion, said motion shall be accompanied by a brief or a memorandum of points and authorities and any supporting affidavits.

5. No communication, including pleadings, briefs, statement of position, etc., will be considered by the court in this civil action unless the documents reflect proof of service upon the parties or their counsel.

6. **NOTE: ***** When an amended complaint is filed prior to service, the court will **VACATE** all previous service orders entered, and service **will not take place**. An amended complaint filed prior to service shall be subject to re-screening pursuant to 28 U.S.C. §1915(e)(2) and § 1915A(a). *******

7. **NOTE: ***** Discovery motions and motions for appointment of counsel filed prior to service will be dismissed without prejudice, with leave to refile following service. *******


UNITED STATES DISTRICT JUDGE